

ORIGINAL

Exhibit and Witness List

UNITED STATES DISTRICT COURT

DISTRICT OF HAWAII

Wayne Berry,

Plaintiff,

V.

RECEIVED EXHIBIT AND WITNESS LIST
CLERK, U.S. DISTRICT COURT

FEB 17 2006

DISTRICT OF HAWAII

Hawaiian Express Service, Inc. et al.,

Case Number: CV03 0385 SOM-LEK

Defendants

PRESIDING JUDGE Hon. Susan Oki Mollway					PLAINTIFF'S ATTORNEY Timothy J. Hogan, Esq.					DEFENDANT'S ATTORNEY Lex Smith, Esq., Lyle Hosoda, Esq.				
TRIAL DATE(S) January 24, 2006					COURT REPORTER					COURTROOM DEPUTY				
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES									
1				2/28	Berry FCS 1993 Copyright Registration No. TX 5-079-445 W. Berry									
2				2/28	API Invoice it withdraws admission reserved b									
3					Email-Crystal Reports Created before 10 1 1999 from Sent Items									
4					Email- Tariff 60 Bill of Lading from Sent Items									
5					Email-Logistics Network from Sent Items									
6					Email-Re good morning! from Sent Items									
7					Email-Re another addition to this Last Day Report from Sent Items									
8					Email-Re Update on New Database from Sent Items									
9					Email-Logistics Database from Sent Items									
10				2/28	Email-Re general mill po 304848 id 50375 c aplu990936 from Move to Spreadsheets									
11					Email-Reformatting Accounting Reports Guide from Sent Items with Attachment									
12					Email-Re HTC Yard Inventory from Sent Items with Attachment									
13				2/28	Email-Fw LOGISTIC SPREAD SHEETS (NEW SYSTEM) from Move to Spreadsheets									

Wayne Berry v. Hawaiian Express Service, Inc., CV03-00385 SOM-LEK					CV03 0385 SOM-LEK
PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES
14				2/28	Email-Re LOGISTIC SPREAD SHEETS (NEW SYSTEM) from Move to Spreadsheets
15				2/28	Email-Re TERESA TRYING TO SAVE from Move to Spreadsheets
16					Email-LOGISTICS INCOME AND EXPENSES from Bankruptcy with Excel Spreadsheet Logistics Expenses.xls
17				2/28	Email-Re SPREADSHEET from Move to Spreadsheets
18					Email-Mainframe connectivity for new logistics computers from Sent Items
19					Email-RE outstanding DEC invoices from inbox
20				2/28	Word Doc-LAN Admin Tasks from FHL 141Drive 1 4 20 01
21				2/28	Memo Stussi to Berry re Assistance with Programming Changes
22				2/28	Email-Period End Freight Spreadsheets from Saved with 3 Attachments
23					Declaration of Mark Dillon from In re Fleming 7 25 03
24				2/28	Email-Re outstanding DECA invoices from Saved from inbox2
25				2/28	Letter from Wayne Berry to Ralph Stussi rePayment for making changes. W Berry
26				2/28	Email-Fwd Re SPREADSHEET with attachment from A New System
27				2/28	Email-Re SPREADSHEET from A New System
28				2/28	Email-TERESA PERFORMANCE APPRAISAL 2002 w/ Excel Attachment Teresa Noa 2002 Self Appraisal from Department
29				2/28	Email-ELIMINATION OF DATABASE from Computer
30					Email-Re Mainframe connectivity for new logistics computers from Deleted Items
31					Fleming MOR from Bk Docket 3214, Excerpt for relevant period
32				3/1	Draft of EULA Addendum No. 2 with handwriting W. Berry
33				2/28	Executed EULA Addendum No. 2 last 2 pages taken out 5 page document
34				2/28	Email-FLEMING HAWAII MILITARY FREIGHT from Military
35				2/28	Email-Fw MILITARY BILLING from Military
36					Email-Re FLEMING LINE ITEM RECEIVING from Hawaiian Express
37					Email-(No Subject) Attachment (Word Doc.) fleming understanding 5. 12. 02.doc from Hawaiian Express
38				2/28	Email-Fw FOLLOW UP from Hawaiian Express
39				2/28	Email-status 0335 freight income with attachment from Merchandising
40				2/28	Email-kmart inbound freight from Kmart
41				2/28	Email-HISTORY from A New System
42				2/28	Email-Re FW Replacement of Berry Database in Logistics Department from a New System
43				2/28	Email-Fw LOGISTICS DEPARTMENT OVERVIEW with excerpt of attachment DATABASE CREATION.XLS from Computer

PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES
(44)				2/28	Email-Fw FLEMING HAWAII LOGISTICS DEPARTMENT from Sent Items3 213702 with (Word Doc)Point Fleming Hawaii Logistics Department.doc and (Power Point) Consolidator Services.ppt
(45)				2/28	Email-Re_ID 50427,50428,50429.eml with attached email from Deleted Items1
(46)				2/28	Email-KELLOGG'S ALLOWANCE from Rates to Merchandising
47					Dillon Supplemental Declaration 6/24/04 from Fleming Bk
48					DHX Proof of Claim
49					Email-Fw fleming hawaii orders from Agrilink
(50)				2/28	Email-Fw FLEMING HAWAII STATUS OF ORDERS dated 1/9 from Agrilink
(51)				2/28	Email-Fw FLEMING HAWAII STATUS OF ORDERS dated 1/10 from Agrilink with Attachment
52					Attachment re: Exhibit 51 from Agrilink
53					DHX DCCA
54					Email-Mark Dillon outstanding things to do from Sent Items1
55					Email-Re 417-01 Hawaii Conference Call Notes from Fleming(2) with attached Word Doc.
56					DHX Web Page with highlighted box added
57					Word Doc-LOGISTICS CHECKLIST from Server FHL D Author Noa with screen print
(58)				2/28	Email-Procedures for Routine IT Tasks from Department with Attached Word Doc
(59)				2/28	Resume Noa from After Guidance Image
60					SEC Form 10-Q Core-Mark Holding Company, Inc. Fleming's Company (Excerpt)
61					Screen Prints from Database recovered from unallocated cluster 10-27-5.
(62)				2/28	API Fleming Proposal To Replace DHX as Freight Forwarder <i>W. Berry</i>
(63)				2/28	LOGISTICS DATA ORG Excel Spread Sheet dated 6/9/03 from Server FHL-D, Excerpts of Voluminous Record
(64)				2/28	Settlement and Release Agreement API - Fleming
65					Asset Purchase Agreement API - Fleming
(66)				2/28	Email-Hawaii Org Chart from Department
(67)				2/2	Crystal Report-Freight Profit/Loss Report from Fleming Computer FHL 150 5/2/2003 <i>(limited purpose)</i>
(68)				2/28	Excerpt from API Fleming Settlement and Release with hand written notes Bates No. A00075 <i>W. Berry</i>
69					Ueno Expert Report
70					HEST Claim in Fleming BK
(71)				2/28	Email-CHANGES IN THE LOGISTICS DEPARTMENT from Third Party Development
72					C&S Pro-forma Data from Fleming Bk Docket

PLF. NO.	DEF. NO.	DATE OFFERED	MARKED	ADMITTED	DESCRIPTION OF EXHIBITS* AND WITNESSES
73					Reasonable Licence Fee Demonstrative
74				3/1	Summary from Kinrich Rebuttal Report Exhibit 5 <i>T. Veno</i>
75				3/1	Kinrich Rebuttal Report Exhibit 5 <i>T. Veno</i>
76				2/28	Email-Dave Batten re Manugistics Roll Out from Fleming CD produced in Berry v. Fleming
77					Economic Report of the President Excerpt with Chart
78				2/28	Email-Fw Re Damien Capazola?[sic] D0064
79					Robert Morris Ratio Books with Wholesale Grocers
80				2/28	Summary of Crystal Reports Voluminous Data Disclosure A00519 <i>W Berry</i>
81					External Hard Drive Produced by Fleming
82					Access Database Derivative of FCS 1993 Original Logistics Data.mdb 6/9/03 from Server FHL-D Excerpt Screen Print of Tables Voluminous Record
83					EXHIBIT O4 from Walker Report (Supplemental).
84				2/28	Email-Changes in the Logistics Department D0012
85				2/28	Email-Changes in the Logistics Department from Department with Word Doc LOGISTICS DATA ENTRY CLERK and Power Point Hawaiian Express Changes
86					Email-Re HEX ACCESS TO DATABASE D0018
87				2/28	Email-ACCESS TO DATABASE D0016
88					Email-Re HAWAIIAN EXPRESS LINE ITEMS RECEIVING BY FLEMING PO from Sent Items1
89					Fleming Indemnity Letter from Fleming Confirmation Hearing evidence
90					Copyright Damages Power Point Demonstrative
91					Fleming Critical Functions Demonstrative Power Point
92				2/28	FCS 1993 System Functions Demonstrative Power Point <i>W Berry</i>
93					Ueno Supplemental Report incorporating Guidance Materials produced by Fleming Exhibits A to H
94					Excerpt from PCT Motion Cross-Complaint Excerpt from Bk 03-10945Docket No 11559
95					Supplemental Declaration of Mark Dillon dated 8-10-03
96				2/28	Borja Request for Employment verification <i>W Berry</i>
97				2/28	API Payroll analysis 1995
98				2/28	Borja Personal Financial Statement <i>provisionally admit W. Berry</i>
99				2/28	API Time worked register 1999 //
100				2/28	Summary of Voluminous Records with Backup API Check Registers //
101				2/28	Money from freight allowances going to Merchand.
102					Ron Hatch with attached Christensen to Staff re Kmart
103				3/2	Christensen with Did they terminate the license attached from Computer

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